

**REMARKS**

Claims 1 and 9 currently appear in this application. The Office Action of May 2, 2006, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicant respectfully requests favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

**Claim Objections**

Claims 5-7 are objected to because of syntax problems.

Since the present amendment cancels claims 5-7, this objection is now moot.

The Examiner has suggested amendments to improve the syntax of claim 12.

Since the present amendment cancels claim 12, this objection is now moot.

**Rejections under 35 U.S.C. 112**

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that

the metes and bounds of the terms "expression enhancer" are not defined by the specification or the claims.

This rejection is respectfully traversed. Claims 2-8 and 10-18 have been cancelled by the present amendment. Claims 1 and 9 have been amended to recite a pharmaceutical composition.

Claim 2, as well as dependent claims 4 and 6, is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since the present amendment cancels claims 2 and 4-6, this rejection is now moot.

Claims 5, and 12, as well as dependent claims 10, 11 and 14, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since the present amendment cancels claims 5,6, 10-12 and 14, this rejection is now moot.

Claims 15-16 as well as dependent claims 17-18, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention.

Since the present amendment cancels claims 15-18, this rejection is now moot.

Claims 3-4 and 8, as well as dependent claim 7, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since the present amendment cancels claims 3, 4, 7 and 8, this rejection is now moot.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since the present amendment cancels claim 11, this rejection is now moot.

Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, because the specification is said to be enabling only for an expression enhancer for antiviral activity comprising interferon- $\alpha$  polypeptides defined by SEQ ID Nos: 1 and 2.

This rejection is respectfully traversed. Claims 2-8 and 10-18 have been cancelled by the present amendment.

Claim 1 has been amended to define interferon- $\alpha$  2 and interferon- $\alpha$  8 with their amino acid sequences. Support for this amendment can be found in the specification as filed in Experiment 1 at paragraphs 0048 to 0059, in particular, Experiment 1-2. Claim 1 has been further amended to define the activity ratio or weight ratio of interferon- $\alpha$  polypeptides based upon claims 3 and 4, which have been cancelled. Claim 9 has been amended to conform to amended claim 1.

Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention.

This rejection is respectfully traversed. Claims 2-8 and 10-18 have been cancelled by the present amendment. Claim 1 has been amended to define interferon- $\alpha$  2 and interferon- $\alpha$  8 with their amino acid sequences. Support for this amendment can be found in the specification as filed in Experiment 1 at paragraphs 0048 to 0059, in particular, Experiment 1-2. Claim 1 has been further amended to define the activity ratio or weight ratio of interferon- $\alpha$

polypeptides based upon claims 3 and 4, which have been cancelled. Claim 9 has been amended to conform to amended claim 1.

**Art Rejections**

Claims 1, 2, 5, 6, and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Testa et al., U.S. 5,503,828.

This rejection is respectfully traversed. Claims 2-8 and 10-18 have been cancelled by the present amendment. The limitations of claims 3 and 4, which were not deemed anticipated by Testa, have been incorporated into claims 1 and 9.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Testa et al. in view of Xi et al., *Pharm. Res.* **13(12)**: 1846-1850, 1996.

This rejection is respectfully traversed. Claims 10 and 11 have been cancelled. Claim 9 depends from amended claim 1. As noted above, claim 1 includes the subject matter of original claims 3 and 4, none of which is disclosed in Testa. Xi does not disclose the subject matter of claims 3 and 4. Accordingly, it is clear that claim 9 is not obvious over Testa in view of Xi.

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Amd. dated October 2, 2006  
Reply to Office Action of May 2, 2006

In view of the above, it is respectfully submitted  
that the claims are in condition for allowance, and favorable  
action thereon is earnestly solicited.

Respectfully submitted,

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